

# HOUSE . . . . . No. 3884

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## The Commonwealth of Massachusetts

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### INITIATIVE PETITION OF MARCIA ANGELL AND OTHERS.

OFFICE OF THE SECRETARY.  
BOSTON, JANUARY 4, 2012.

Steven T. James  
*Clerk of the House of Representatives*  
State House  
Boston, Massachusetts 02133

Sir: - I herewith transmit to you, in accordance with the requirements of Article XLVIII of the Amendments to the Constitution, an Initiative Petition for Law entitled "An Act Relative to Death with Dignity" signed by ten qualified voters and filed with this department on or before December 7, 2011, together with additional signatures of qualified voters in the number of 79,626, being a sufficient number to comply with the Provisions of said Article.

Sincerely,

WILLIAM FRANCIS GALVIN,  
*Secretary of the Commonwealth.*

### AN INITIATIVE PETITION.

Pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth, as amended, the undersigned qualified voters of the Commonwealth, ten in number at least, hereby petition for the enactment into law of the following measure:

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Twelve.

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**AN ACT RELATIVE TO DEATH WITH DIGNITY.**

*Be it enacted by the People, and by their authority, as follows:*

1     SECTION 1. It is hereby declared that the public welfare requires a defined and  
2     safeguarded process by which an adult Massachusetts resident who has the  
3     capacity to make health care decisions and who has been determined by his or  
4     her attending and consulting physicians to be suffering from a terminal disease  
5     that will cause death within six months may obtain medication that the patient  
6     may self administer to end his or her life in a humane and dignified manner. It  
7     is further declared that the public welfare requires that such a process be entirely  
8     voluntary on the part of all participants, including the patient, his or her  
9     physicians, and any other health care provider or facility providing services or  
10    care to the patient. This act, being necessary for the welfare of the  
11    Commonwealth and its residents, shall be liberally construed to effect the  
12    purposes thereof.

13    SECTION 2. The General Laws of Massachusetts shall be amended by inserting  
14    after chapter 201F the following new chapter 201G:-

15    **CHAPTER 201G MASSACHUSETTS DEATH WITH DIGNITY ACT**

16    *Section 1. Definitions.*

17 The definitions in this section apply throughout this chapter unless the context  
18 clearly requires otherwise.

19 (1) "Adult" means an individual who is eighteen years of age or older.

20 (2) "Attending physician" means the physician who has primary responsibility  
21 for the care of the patient and treatment of the patient's terminal disease.

22 (3) "Capable" means having the capacity to make health care decisions and to  
23 communicate them to health care providers, including communication through  
24 persons familiar with the patient's manner of communicating if those persons are  
25 available.

26 (4) "Consulting physician" means a physician who is qualified by specialty or  
27 experience to make a professional diagnosis and prognosis regarding the  
28 patient's disease.

29 (5) "Counseling" means one or more consultations as necessary between a state  
30 licensed psychiatrist or psychologist and a patient for the purpose of  
31 determining that the patient is capable and not suffering from a psychiatric or  
32 psychological disorder or depression causing impaired judgment.

33 (6) "Health care provider" means a person licensed, certified, or otherwise  
34 authorized or permitted by law to administer health care or dispense medication  
35 in the ordinary course of business or practice of a profession, and includes a  
36 health care facility.

37 (7) "Informed decision" means a decision by a qualified patient, to request and  
38 obtain a prescription for medication that the qualified patient may self-

39 administer to end his or her life in a humane and dignified manner, that is based  
40 on an appreciation of the relevant facts and after being fully informed by the  
41 attending physician of:

42 (a) his or her medical diagnosis;

43 (b) his or her prognosis;

44 (c) the potential risks associated with taking the medication to be prescribed;

45 (d) the probable result of taking the medication to be prescribed; and

46 (e) the feasible alternatives including, but not limited to, comfort care, hospice  
47 care, and pain control.

48 (8) "Medically confirmed" means the medical opinion of the attending physician  
49 has been confirmed by a consulting physician who has examined the patient and  
50 the patient's relevant medical records.

51 (9) "Patient" means a person who is under the care of a physician.

52 (10) "Physician" means a doctor of medicine or osteopathy licensed to practice  
53 medicine in Massachusetts by the board of registration in medicine.

54 (11) "Qualified patient" means a capable adult who is a resident of  
55 Massachusetts and has satisfied the requirements of this chapter in order to  
56 obtain a prescription for medication that the qualified patient may self-  
57 administer to end his or her life in a humane and dignified manner.

58 (12) "Self-administer" means a qualified patient's act of ingesting medication to  
59 end his or her life in a humane and dignified manner.

60 (13) "Terminal disease" means an incurable and irreversible disease that has  
61 been medically confirmed and will, within reasonable medical judgment,  
62 produce death within six months.

63 *Section 2. Written request for medication.*

64 (1) An adult resident of Massachusetts who is capable and has been determined  
65 by his or her attending physician and consulting physician to be suffering from a  
66 terminal disease, and who has voluntarily expressed his or her wish to die, may  
67 make a written request for medication that the patient may self-administer to  
68 end his or her life in a humane and dignified manner in accordance with this  
69 chapter.

70 (2) A person does not qualify under this chapter solely because of age or  
71 disability.

72 *Section 3. Form of the written request.*

73 (1) A valid request for medication under this chapter shall be in substantially the  
74 form set forth in section 21, signed and dated by the patient and witnessed by at  
75 least two individuals who, in the presence of the patient, attest that to the best of  
76 their knowledge and belief the patient is capable, acting voluntarily, and is not  
77 being coerced to sign the request.

78 (2) At least one of the witnesses shall be a person who is not:

79 (a) a relative of the patient by blood, marriage, or adoption;

80 (b) a person who at the time the request is signed would be entitled to any  
81 portion of the estate of the qualified patient upon death under any will or by  
82 operation of law; and

83 (c) an owner, operator, or employee of a health care facility where the qualified  
84 patient is receiving medical treatment or is a resident.

85 (3) The patient's attending physician at the time the request is signed shall not  
86 serve as a witness.

87 (4) If the patient is a patient in a long-term care facility at the time the written  
88 request is made, one of the witnesses shall be an individual designated by the  
89 facility.

90 *Section 4. Attending physician responsibilities.*

91 (1) The attending physician shall:

92 (a) make the initial determination of whether a patient has a terminal disease, is  
93 capable, and has made the request voluntarily;

94 (b) request that the patient demonstrate Massachusetts residency;

95 (c) to ensure that the patient is making an informed decision, inform the patient  
96 of:

97 (i) his or her medical diagnosis;

98 (ii) his or her prognosis;

99 (iii) the potential risks associated with taking the medication to be prescribed;

100 (iv) the probable result of taking the medication to be prescribed; and

- 101 (v) the feasible alternatives including, but not limited to, comfort care, hospice  
102 care, and pain control;
- 103 (d) refer the patient to a consulting physician for medical confirmation of the  
104 diagnosis, and for a determination that the patient is capable and acting  
105 voluntarily;
- 106 (e) refer the patient for counseling if appropriate pursuant to section 6;
- 107 (f) recommend that the patient notify next of kin;
- 108 (g) advise the patient about the importance of having another person present  
109 when the patient takes the medication prescribed under this chapter and of not  
110 taking the medication in a public place;
- 111 (h) inform the patient that he or she has an opportunity to rescind the request at  
112 any time and in any manner, and offer the patient an opportunity to rescind at  
113 the end of the fifteen- day waiting period required by section 9;
- 114 (i) verify, immediately before writing the prescription for medication under this  
115 chapter, that the patient is making an informed decision;
- 116 (j) fulfill the medical record documentation requirements of section 12;
- 117 (k) ensure that all appropriate steps are carried out in accordance with this  
118 chapter before writing a prescription for medication to enable a qualified patient  
119 to end his or her life in a humane and dignified manner; and
- 120 (l) (i) dispense medications directly, including ancillary medications intended to  
121 facilitate the desired effect to minimize the patient's discomfort, if the attending

122 physician is authorized under law to dispense and has a current drug  
123 enforcement administration certificate; or

124 (ii) with the patient's written consent: (A) contact a pharmacist and inform the  
125 pharmacist of the prescription; and (B) deliver the written prescription  
126 personally, by mail, or by otherwise permissible electronic communication to  
127 the pharmacist, who will dispense the medications directly to either the patient,  
128 the attending physician, or an expressly identified agent of the patient.  
129 Medications dispensed pursuant to this paragraph(1) shall not be dispensed by  
130 mail or other form of courier.

131 (2) The attending physician may sign the patient's death certificate which shall  
132 list the underlying terminal disease as the cause of death.

133 *Section 5. Consulting physician responsibilities.*

134 A patient may not be considered qualified under this chapter until a consulting  
135 physician has examined the patient and his or her relevant medical records and  
136 confirmed, in writing, the attending physician's diagnosis that the patient is  
137 suffering from a terminal disease, and verified that the patient is capable, is  
138 acting voluntarily, and has made an informed decision.

139 *Section 6. Counseling referral.*

140 If, in the opinion of the attending physician or the consulting physician, a patient  
141 may be suffering from a psychiatric or psychological disorder or depression  
142 causing impaired judgment, either physician shall refer the patient for  
143 counseling. Medication to end a patient's life in a humane and dignified manner



144 shall not be prescribed unless and until the person performing the counseling  
145 determines that the patient is not suffering from a psychiatric or psychological  
146 disorder or depression causing impaired judgment.

147 *Section 7. Informed decision.*

148 A patient shall not receive a prescription for medication to end his or her life in a  
149 humane and dignified manner unless he or she has made an informed decision.

150 Immediately before writing a prescription for medication under this chapter, the  
151 attending physician shall verify that the patient is making an informed decision.

152 *Section 8. Notification of next of kin.*

153 No patient shall receive a prescription for medication to end his or her life in a  
154 humane and dignified manner unless the attending physician has recommended  
155 that the patient notify the next of kin of his or her request for medication under  
156 this chapter. A patient who declines or is unable to notify next of kin shall not  
157 have his or her request denied for that reason.

158 *Section 9. Written and oral requests.*

159 In order to receive a prescription for medication that the qualified patient may  
160 self-administer to end his or her life in a humane and dignified manner, a  
161 qualified patient shall have made an oral request and a written request, and  
162 reiterate the oral request to his or her attending physician at least fifteen days  
163 after making the initial oral request. At the time the qualified patient makes his  
164 or her second oral request, the attending physician shall offer the qualified  
165 patient an opportunity to rescind the request.

166     *Section 10. Right to rescind request.*

167     A patient may rescind his or her request at any time and in any manner without  
168     regard to his or her mental state. No prescription for medication under this  
169     chapter may be written without the attending physician offering the qualified  
170     patient an opportunity to rescind the request.

171     *Section 11. Waiting periods.*

172     (1) At least fifteen days shall elapse between the patient's initial oral request and  
173     the writing of a prescription under this chapter.

174     (2) At least forty-eight hours shall elapse between the time the patient signs the  
175     written request and the writing of a prescription under this chapter.

176     *Section 12. Medical record documentation requirements.*

177     The following items shall be documented or filed in the patient's medical record:

178     (1) all oral requests by a patient to a physician for medication to end his or her  
179     life in a humane and dignified manner;

180     (2) all written requests by a patient for medication to end his or her life in a  
181     humane and dignified manner;

182     (3) the attending physician's diagnosis and prognosis, and determination that  
183     the patient is capable, is acting voluntarily, and has made an informed decision;

184     (4) the consulting physician's diagnosis and prognosis, and verification that the  
185     patient is capable, is acting voluntarily, and has made an informed decision;

186     (5) a report of the outcome and determinations made during counseling, if  
187     performed;

188 (6) the attending physician's offer to the patient to rescind his or her request at  
189 the time of the patient's second oral request under section 9; and

190 (7) a note by the attending physician indicating that all requirements under this  
191 chapter have been met and indicating the steps taken to carry out the request,  
192 including a notation of the medication prescribed.

193 *Section 13. Residency requirement.*

194 Only requests made by Massachusetts residents may be granted under this  
195 chapter. Factors demonstrating Massachusetts residency include but are not  
196 limited to: possession of a Massachusetts driver's license; registration to vote in  
197 Massachusetts; or the filing of a Massachusetts resident tax return for the most  
198 recent tax year.

199 *Section 14. Disposal of unused medications.*

200 Any medication dispensed under this chapter that was not self-administered  
201 shall be disposed of by lawful means.

202 *Section 15. Information reporting; disclosure of information collected; annual*  
203 *statistical report.*

204 (1) Not later than March 20, 2013, the department of public health shall  
205 promulgate rules requiring any health care provider upon dispensing medication  
206 pursuant to this chapter to file a copy of the dispensing record with the  
207 department and to otherwise facilitate the collection of information regarding  
208 compliance with this chapter; provided that all administratively required  
209 documentation shall be mailed or otherwise transmitted to the department as

210 provided by rule no later than thirty days after the writing of a prescription and  
211 dispensing of medication under this chapter, except that all documents required  
212 to be filed with the department by the prescribing physician after the death of  
213 the patient shall be mailed no later than thirty days after the date of death of the  
214 patient. In the event that anyone required under this chapter to report  
215 information to the department provides an inadequate or incomplete report, the  
216 department shall contact the person to request a complete report.

217 (2) Except as otherwise required by law, the information collected pursuant to  
218 subsection (1) shall not be a public record to the extent it contains material or  
219 data that could be used to identify individual patients, physicians, or other health  
220 care providers.

221 (3) The department shall annually review the records maintained pursuant to this  
222 chapter and shall generate and make available to the public an annual statistical  
223 report of information collected under subsection (1) of this section.

224 *Section 16. Contracts, wills, insurance policies, annuities.*

225 (1) No provision in a contract, will, insurance policy, annuity, or other  
226 agreement, whether written or oral, made on or after January 1, 2013, shall be  
227 valid to the extent the provision would condition or restrict a person's decision to  
228 make or rescind a request for medication to end his or her life in a humane and  
229 dignified manner.

230 (2) No obligation owing under any contract, will, insurance policy, annuity, or  
231 other agreement made before the effective date of this chapter shall be affected

232 by the provisions of this chapter, a person's making or rescinding a request for  
233 medication to end his or her life in a humane and dignified manner, or by taking  
234 any other action authorized by this chapter.

235 (3) On and after January 1, 2013, the sale, procurement, or issuance of any life,  
236 health, or accident insurance policy or annuity or the premium or rate charged  
237 for any such policy or annuity shall not be conditioned upon or otherwise take  
238 into account the making or rescinding of a request for medication under this  
239 chapter by any person.

240 *Section 17.* No authorization of lethal injection, etc.; no reduction in standard of  
241 care.

242 (1) Nothing in this chapter authorizes a physician or any other person to end a  
243 patient's life by lethal injection, active euthanasia, or mercy killing.

244 (2) Nothing contained in this chapter shall be interpreted to lower the applicable  
245 standard of care for the attending physician, consulting physician, psychiatrist or  
246 psychologist, or other health care provider participating under this chapter.

247 *Section 18.* Immunities; permissible sanctions.

248 (1) Except as provided in section 19 and subsection (3) of this section:

249 (a) No person shall be subject to civil or criminal liability or professional  
250 disciplinary action by any regulatory agency for any actions undertaken in  
251 compliance with this chapter. This includes being present when a qualified  
252 patient takes the prescribed medication to end his or her life in a humane and

253 dignified manner. A person who substantially complies in good faith with the  
254 provisions of this chapter shall be deemed to be in compliance with this chapter.

255 (b) Actions taken in accordance with this chapter shall not constitute suicide,  
256 assisted suicide, mercy killing or homicide under any criminal law of the  
257 commonwealth.

258 (c) A patient's request for or the provision of medication in compliance with this  
259 chapter shall not constitute neglect for any purpose of law or provide the sole  
260 basis for the appointment of a guardian or conservator; and

261 (2) Participation in this chapter shall be voluntary. If a health care provider is  
262 unable or unwilling to carry out a patient's request under this chapter, and the  
263 patient transfers his or her care to a new health care provider, the prior health  
264 care provider shall transfer, upon request, a copy of the patient's relevant  
265 medical records to the new health care provider.

266 (3) (a) A health care provider may prohibit another health care provider from  
267 participating in this chapter on the premises of the prohibiting provider if the  
268 prohibiting provider has given prior notice to all health care providers with  
269 privileges to practice on the premises of the prohibiting provider's policy  
270 regarding participation in this chapter. This subsection does not prevent a health  
271 care provider from providing health care services to a patient that do not  
272 constitute participation in this chapter.

273 (b) A health care provider may subject another health care provider to the  
274 sanctions stated in this paragraph (b) if the sanctioning health care provider has

275 notified the sanctioned provider before participation in this chapter that it  
276 prohibits participation in this chapter:

277 (i) loss of privileges, loss of membership, or other sanctions provided under the  
278 medical staff bylaws, policies, and procedures of the sanctioning health care  
279 provider if the sanctioned provider is a member of the sanctioning provider's  
280 medical staff and participates in this chapter while on the health care facility  
281 premises of the sanctioning health care provider, but not including the private  
282 medical office of a physician or other provider;

283 (ii) termination of a lease or other contract for the occupancy of real property or  
284 other nonmonetary remedies provided by such lease or contract if the sanctioned  
285 provider participates in this chapter while on the premises of the sanctioning  
286 health care provider or on property that is owned by or under the direct control  
287 of the sanctioning health care provider; provided, however, that no lease or other  
288 contract made on and after January 1, 2013, shall authorize or permit  
289 nonmonetary remedies for participation in this chapter in the form of loss or  
290 restriction of medical staff privileges or exclusion from a provider panel; or

291 (iii) termination of a contract or other nonmonetary remedies provided by  
292 contract if the sanctioned provider participates in this chapter while acting in  
293 the course and scope of the sanctioned provider's capacity as an employee or  
294 independent contractor of the sanctioning health care provider. Nothing in this  
295 subparagraph (iii) prevents: (A) a health care provider from participating in this  
296 chapter while acting outside the course and scope of the provider's capacity as

297 an employee or independent contractor; or (B) a patient from contracting with  
298 his or her attending physician and consulting physician to act outside the course  
299 and scope of the provider's capacity as an employee or independent contractor of  
300 the sanctioning health care provider.

301 (c) A health care provider that imposes sanctions under (b) of this subsection  
302 shall follow all otherwise applicable due process and other procedures the  
303 sanctioning health care provider may have in place that are related to the  
304 imposition of sanctions on another health care provider.

305 (d) For the purposes of this subsection (3), the following terms and their variants  
306 shall have the meanings given:

307 (i) "Notify" means a separate statement in writing to the health care provider  
308 specifically informing the health care provider before the provider's participation  
309 in this chapter of the sanctioning health care provider's policy about  
310 participation in activities covered by this chapter.

311 (ii) "Participate in this chapter" means to perform the duties of an attending  
312 physician under section 4, the consulting physician function under section 5, or  
313 the counseling function under section 6. "Participate in this chapter" does not  
314 include: (A) making an initial determination that a patient has a terminal disease  
315 and informing the patient of the medical prognosis; (B) providing information  
316 about the Massachusetts death with dignity act to a patient upon the request of  
317 the patient; (C) providing a patient, upon the request of the patient, with a  
318 referral to another physician; or (D) a health care provider's contracting with a



319 patient to act outside of the course and scope of the provider's capacity as an  
320 employee or independent contractor of the sanctioning health care provider.

321 *Section 19. Willful alteration or forgery; coercion, etc., penalties.*

322 (1) A person who without authorization of the patient willfully alters or forges a  
323 request for medication or conceals or destroys a rescission of that request with  
324 the intent or effect of causing the patient's death shall be guilty of a felony  
325 punishable by imprisonment in the state prison for not more than ten years or in  
326 the house of correction for not more than two and one-half years or by a fine of  
327 not more than five thousand dollars or by both such fine and imprisonment.

328 (2) A person who coerces or exerts undue influence on a patient to request  
329 medication to end the patient's life, or to destroy a rescission of a request, shall  
330 be guilty of a felony punishable by imprisonment in the state prison for not more  
331 than three years or in the house of correction for not more than two and one-half  
332 years or by a fine of not more than one thousand dollars or by both such fine and  
333 imprisonment.

334 (3) Nothing in this chapter limits liability for civil damages resulting from the  
335 negligence or intentional misconduct by any person.

336 (4) The penalties in this chapter do not preclude criminal penalties applicable  
337 under other law for conduct that is inconsistent with this chapter.

338 *Section 20. Claims by governmental entity for costs incurred.*

339 Any governmental entity that incurs costs resulting from a person terminating  
340 his or her life under this chapter in a public place has a claim against the estate

341 of the person to recover such costs and reasonable attorneys' fees related to  
342 enforcing the claim.

343 *Section 21. Form of the request.*

344 A request for a medication as authorized by this chapter shall be in substantially  
345 the following form:

346 REQUEST FOR MEDICATION TO END MY LIFE IN A HUMANE AND  
347 DIGNIFIED MANNER

348 I,....., am an adult of sound mind and a resident of the Commonwealth of  
349 Massachusetts.

350 I am suffering from ....., which my attending physician has determined is  
351 a terminal disease and which has been medically confirmed by a consulting  
352 physician.

353 I have been fully informed of my diagnosis, prognosis, the nature of medication  
354 to be prescribed and potential associated risks, the expected result, and the  
355 feasible alternatives, including comfort care, hospice care, and pain control.

356 I request that my attending physician prescribe medication that I may self-  
357 administer to end my life in a humane and dignified manner and to contact any  
358 pharmacist to fill the prescription.

359 INITIAL ONE:

360 ..... I have informed my family of my decision and taken their opinions into  
361 consideration.

362 ..... I have decided not to inform my family of my decision.

363 ..... I have no family to inform of my decision.  
364 I understand that I have the right to rescind this request at any time.  
365 I understand the full import of this request and I expect to die if and when I take  
366 the medication to be prescribed. I further understand that although most deaths  
367 occur within three hours, my death may take longer and my physician has  
368 counseled me about this possibility.  
369 I make this request voluntarily and without reservation, and I accept full moral  
370 responsibility for my actions.  
371 Signed:..... . Dated:..... .

372 DECLARATION OF WITNESSES

373 By initialing and signing below on or after the date the person named above  
374 signs, we declare that the person making and signing the above request:

375	Witness 1	Witness 2	
376	Initials	Initials	
377	.....	.....	1. Is personally known to us or has provided
378			proof of identity;
379	.....	.....	2. Signed this request in our presence on the
380			date of the person's signature;
381	.....	.....	3. Appears to be of sound mind and not
382			under duress, fraud, or undue influence; and
383	.....	.....	4. Is not a patient for whom either of us is
384			the attending physician.

385 Printed Name of Witness 1: ..... .

386 Signature of Witness 1/Date: ..... .

387 Printed Name of Witness 2: ..... .

388 Signature of Witness 2/Date: ..... .

389 NOTE: At least one witness shall not be a relative by blood, marriage, or  
390 adoption of the person signing this request, shall not be entitled to any portion of  
391 the person's estate upon death, and shall not own, operate, or be employed at a  
392 health care facility where the person is a patient or resident. If the patient is an  
393 inpatient at a health care facility, one of the witnesses shall be an individual  
394 designated by the facility.

395 *Section 22. Title.*

396 This chapter may be known and cited as the Massachusetts death with dignity  
397 act.

398 *Section 23. Severability.*

399 If any provision of this act or its application to any person or circumstance is  
400 held invalid, the remainder of the act or the application of the provision to other  
401 persons or circumstances is not affected.

## FIRST TEN SIGNERS

<u>NAME</u>	<u>RESIDENCE</u>	<u>CITY OR TOWN</u>
Marcia Angell	13 Ellery Sq.	Cambridge
Terry R. Bard	53 Wendell Road	Newton
Norma L. Shapiro	269 Laws Brook Rd.	Concord
Lewis M. Cohen	51 Harrison Avenue	Northampton
Carol V. Rose	11 Parker St.	Lexington
Daniel W. Brock	180 Washington St.	Newton
John W. Roberts	321 Huron Avenue	Cambridge
Hannah W. Zalinger	15 Kent Sq.	Brookline
Charles H. Baron	9 Lawrence Avenue	Westport
James C. Gross	80 Highland Ave.	Newton

### Summary of 11-12.

This proposed law would allow a physician licensed in Massachusetts to prescribe medication, at a terminally ill patient's request, to end that patient's life. To qualify, a patient would have to be an adult resident who (1) is medically determined to be mentally capable of making and communicating health care decisions; (2) has been diagnosed by attending and consulting physicians as having an incurable, irreversible disease that will, within reasonable medical judgment, cause death within six months; and (3) voluntarily expresses a wish to die and has made an informed decision. The proposed law states that the patient would ingest the medicine in order to cause death in a humane and dignified manner.

The proposed law would require the patient, directly or through a person familiar with the patient's manner of communicating, to orally communicate to a physician on two occasions, 15 days apart, the patient's request for the medication. At the time of the second request, the physician would have to offer the patient an opportunity to rescind the request. The patient would also have to sign a standard form, in the presence of two witnesses, one of whom is not a relative, a beneficiary of the patient's estate, or an owner, operator, or employee of a health care facility where the patient receives treatment or lives.

The proposed law would require the attending physician to: (1) determine if the patient is qualified; (2) inform the patient of his or her medical diagnosis and prognosis, the potential risks and probable result of ingesting the medication, and the feasible alternatives, including comfort care, hospice care and pain control; (3) refer the patient to a consulting physician for a diagnosis and prognosis regarding the patient's disease, and confirmation in writing that the patient is capable, acting voluntarily, and making an informed decision; (4) refer the patient for psychiatric or psychological consultation if the physician believes the patient may have a disorder causing impaired judgment; (5) recommend that the patient notify next of kin of the patient's intention; (6) recommend that the patient have another person present when the patient ingests the medicine and to not take it in a public place; (7) inform the patient that he or she may rescind the request at any time; (8) write the prescription when the requirements of the law are met, including

verifying that the patient is making an informed decision; and (9) arrange for the medicine to be dispensed directly to the patient, or the patient's agent, but not by mail or courier.

The proposed law would make it punishable by imprisonment and/or fines, for anyone to (1) coerce a patient to request medication, (2) forge a request, or (3) conceal a rescission of a request. The proposed law would not authorize ending a patient's life by lethal injection, active euthanasia, or mercy killing. The death certificate would list the underlying terminal disease as the cause of death.

Participation under the proposed law would be voluntary. An unwilling health care provider could prohibit or sanction another health care provider for participating while on the premises of, or while acting as an employee of or contractor for, the unwilling provider.

The proposed law states that no person would be civilly or criminally liable or subject to professional discipline for actions that comply with the law, including actions taken in good faith that substantially comply. It also states that it should not be interpreted to lower the applicable standard of care for any health care provider.

A person's decision to make or rescind a request could not be restricted by will or contract made on or after January 1, 2013, and could not be considered in issuing, or setting the rates for, insurance policies or annuities. Also, the proposed law would require the attending physician to report each case in which life-ending medication is dispensed to the state Department of Public Health. The Department would provide public access to statistical data compiled from the reports.

The proposed law states that if any of its parts was held invalid, the other parts would stay in effect.

## CERTIFICATE OF THE ATTORNEY GENERAL.

September 7, 2011.

Honorable William Francis Galvin  
*Secretary of the Commonwealth*  
One Ashburton Place, Room 1705  
Boston, Massachusetts 02108

RE: Initiative Petition No. 11-12: An Initiative Petition for an Act Relative  
to Death with Dignity.

Dear Secretary Galvin:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, I have reviewed the above-referenced initiative petition, which was submitted to me on or before the first Wednesday of August of this year.

I hereby certify that this measure is in proper form for submission to the people; that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections; and that it contains only subjects that are related or are mutually dependent and which are not excluded from the initiative process pursuant to Article 48, the Initiative, Part 2, Section 2.

In accordance with Article 48, I enclose a fair, concise summary of the measure.

Cordially,

MARTHA COAKLEY,  
*Attorney General.*